

MANDATORY FEDERAL PRISON DRUG TREATMENT ACT
OF 1996

MAY 31, 1996.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. MCCOLLUM, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 2650]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2650) to amend title 18, United States Code, to eliminate certain sentencing inequities for drug offenders, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Mandatory Federal Prison Drug Treatment Act of 1996”.

SEC. 2. ELIMINATION OF SENTENCING INEQUITIES FOR DRUG OFFENDERS.

(a) IN GENERAL.—Subparagraph (B) of section 3621(e)(2) of title 18, United States Code, is amended to read as follows:

“(B) ADMINISTRATION OF TREATMENT PROGRAMS.—The Attorney General shall ensure through the use of all appropriate and available incentives and sanctions that eligible prisoners undergo a program of substance abuse treatment.”.

(b) CONFORMING AMENDMENT.—The heading for paragraph (2) of section 3621(e) of title 18, United States Code, is amended by striking “INCENTIVE FOR PRISONERS’ SUCCESSFUL COMPLETION OF TREATMENT PROGRAM” and inserting “TREATMENT REQUIREMENT”.

(c) ELIGIBILITY.—Clause (ii) of section 3621(e)(5)(B) of title 18, United States Code, is amended to read as follows:

“(ii) within 24 months of the date of release, or is otherwise designated by the Bureau of Prisons for participation in a residential substance abuse treatment program; and”.

PURPOSE AND SUMMARY

H.R. 2650, the "Mandatory Federal Prison Drug Treatment Act of 1996," was introduced for the purpose of eliminating sentencing inequities for federal offenders. Currently, the Bureau of Prisons (BOP) has the discretion to release a drug addicted nonviolent prisoner up to one year early if that prisoner successfully completes a drug treatment program. Non-substance abusing prisoners incarcerated for the identical crime with the same criminal history are not eligible for such early release. In effect, drug abusing inmates are being rewarded for being addicts by having the opportunity to be released up to one year early. H.R. 2650 eliminates this discretionary authority.

The bill directs the Attorney General to ensure that the BOP use all appropriate and available incentives and sanctions to motivate inmates to participate in a drug treatment program. H.R. 2650 does not authorize the revocation of good time as a means of encouraging prisoners to undergo substance abuse treatment.

BACKGROUND AND NEED FOR THE LEGISLATION

In the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), early release authority was given to the Bureau of Prisons (BOP) for any substance addicted federal prisoners who successfully completed a residential drug program. The BOP was authorized to allow nonviolent prisoners who had completed the program to be released up to one year early. Under current law, non-substance abusing prisoners convicted of the identical crime with the same criminal history do not have any comparable opportunities for early release.

H.R. 2650, the "Mandatory Federal Prison Drug Treatment Act of 1996," was introduced for the purpose of eliminating these sentencing inequities for federal offenders. This bill abolishes the discretionary authority of the BOP to release an addicted nonviolent prisoner up to one year early. The bill does not eliminate the Bureau of Prisons' successful drug treatment program, nor does it eliminate good time as a means of encouraging eligible prisoners to undergo substance abuse treatment. Rather, H.R. 2650 requires the Attorney General to ensure that the BOP use all appropriate and available incentives and sanctions so that eligible prisoners undergo a program of substance abuse treatment. These inducements could include giving inmates preferred job and housing assignments, or letting them serve the ends of their sentences in halfway houses.

H.R. 2650 also modifies the definition of who is eligible for a substance abuse program. The programs will now be available to any prisoner who is within twenty-four months of the date of release, or who is otherwise designated by the Bureau of Prisons as suited for participation in a substance abuse treatment program.

In a letter dated April 16, 1996, the Department of Justice indicated its strong support of this legislation.

HEARINGS

The Committee's Subcommittee on Crime held a hearing on H.R. 2650 on March 7, 1996. Testimony was received from one witness,

Kevin V. DiGregory, Deputy Assistant Attorney General of the Criminal Division, representing the Department of Justice.

COMMITTEE CONSIDERATION

On April 17, 1996, the Subcommittee on Crime met in open session and ordered favorably reported the bill H.R. 2650, as amended, by a voice vote, a quorum being present. On April 24, 1996, the Full Committee met in open session and ordered favorably reported the bill H.R. 2650 with amendment by a voice vote, a quorum being present.

VOTE OF THE COMMITTEE

There were no recorded votes.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House Rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to H.R. 2650, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 31, 1996.

Hon. HENRY J. HYDE,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2650, the Mandatory Federal Prison Drug Treatment Act of 1996.

Enacting H.R. 2650 would not affect direct spending and receipts. Therefore, pay-as-you-go procedures would not apply to this bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director*.

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 2650.
2. Bill title: Mandatory Federal Prison Drug Treatment Act of 1996.
3. Bill status: As ordered reported by the House Committee on the Judiciary on April 24, 1996.
4. Bill purpose: This bill would repeal the authority of the Bureau of Prisons (BOP) to release from prison, up to one year earlier than would otherwise be allowed, a nonviolent prisoner with a substance abuse problem who has completed a residential drug treatment program. Such programs provide individual and group activities and counseling, lasting between 6 months and 12 months, in residential treatment facilities separate from the general prison population. This bill also would direct the Attorney General to ensure that BOP uses all appropriate and available incentives and sanctions to encourage eligible prisoners to undergo treatment for substance abuse. Finally, the bill would limit the definition of an "eligible prisoner" to someone who has a substance abuse problem and who is within 24 months of the date of release, or to someone that BOP designates for participation in a residential program for treating substance abuse problems.
5. Estimated cost to the Federal Government: As shown in the following table, CBO estimates that enacting H.R. 2650 would increase discretionary spending by about \$8 million in fiscal year 1997 and \$95 million over the 1997–2002 period, assuming appropriation of the necessary funds.

[By fiscal year, in millions of dollars]

Spending subject to appropriations	1996	1997	1998	1999	2000	2001	2002
Spending under current law:							
Estimated authorization level ¹	2,582	2,582	2,582	2,582	2,582	2,582	2,582
Estimated outlays	2,195	2,453	2,582	2,582	2,582	2,582	2,582
Proposed changes:							
Estimated authorization level		9	18	18	18	18	18
Estimated outlays		8	16	17	18	18	18
Estimated spending under H.R. 2650:							
Estimated authorization level ¹	2,582	2,591	2,600	2,600	2,600	2,600	2,600
Estimated outlays	2,195	2,461	2,598	2,599	2,600	2,600	2,600

¹The 1996 level is the amount appropriated for that year. The estimated authorization levels for 1997 through 2002 reflect CBO baseline estimates for BOP, assuming no adjustment for inflation.

The costs of this bill fall within budget function 750.

6. Basis of estimate: For purposes of this estimate, CBO assumes that H.R. 2650 would be enacted by October 1, 1996, and that the estimated authorization amounts would be appropriated for each year. We estimated outlays based on the historical rate of spending for BOP.

Under current law, nonviolent prisoners who successfully complete a residential substance abuse treatment program can be released up to one year earlier than prisoner who do not complete

such a program. According to BOP, during fiscal year 1997 about 800 prisoners are expected to be released early from prison as a result of this provision. However, under H.R. 2650, such shorter sentences would be eliminated. As a result, CBO expects that under this bill, prisoners who otherwise would be released early now would serve one additional year in prison. According to BOP, the annual cost of incarcerating a prisoner is about \$23,000. Assuming roughly 800 prisoners would be eligible for early release annually, CBO estimates that enacting H.R. 2650 would increase prison operating expenses by about \$18 million annually once fully implemented, and by \$95 million over the 1997–2002 period. This estimate assumes that prisoners currently enrolled in treatment programs would lose their eligibility for early release. If this is not the case, initial costs would be lower.

Ordinarily, BOP allows prisoners who have substance abuse problems to participate in a residential treatment program 36 months before completing their prison sentences, if resources are available. While shortening the time period that prisoners have available to participate in a drug treatment program from 36 months to 24 months prior to release may reduce these costs somewhat, CBO does not expect such savings to be significant.

7. Pay-as-you-go considerations: None.

8. Estimated impact on State, local, and tribal governments: H.R. 2650 contains no intergovernmental mandates as defined in Public Law 104–4 and would impose no direct costs on state, local, or tribal governments.

9. Estimated impact on the private sector: H.R. 2650 would impose a new private-sector mandate on federal prisoners by effectively requiring prisoners with substance abuse problems to undergo a treatment program. The requirement would be enforced by imposing sanctions on those prisoners who choose not to participate. For purposes of Public Law 104–4, the private sector encompasses all persons or entities in the United States including individuals who are incarcerated. The cost of the treatment requirement would be borne by the federal government and, consequently, the direct costs imposed on the private sector would be zero.

10. Previous CBO estimate: None.

11. Estimate prepared by: Federal Cost Estimate: Susanne S. Mehlman, State and Local Governmental Impact: Leo Lex, Private Sector Impact: Matthew Eyles.

12. Estimate approved by: Robert A. Sunshine (for Paul N. Van de Water, Assistant Director for Budget Analysis).

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that H.R. 2650 will have no significant inflationary impact on prices and costs in the national economy.

SECTION-BY-SECTION ANALYSIS

Section 1.—Short title

This section states that the short title of this bill is the “Mandatory Federal Prison Drug Treatment Act of 1996.”

Sec. 2.—Elimination of sentencing inequities for drug offenders

This section amends § 3621(e)(2)(B) of title 18, United States Code, by directing the Attorney General to ensure, through the use of all appropriate and available incentives and sanctions, that eligible prisoners undergo a program of substance abuse treatment.

This section also amends clause (ii) of § 3621(e)(5)(B) of title 18, United States Code, by modifying the definition of eligibility, so that any prisoner who is within twenty-four months of the date of release, or is otherwise designated by the Bureau of Prisons for participation in a residential substance abuse program, is eligible for a substance abuse treatment program.

AGENCY VIEWS

The Committee received the following letter from the United States Department of Justice providing Administration views on H.R. 2650:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, April 16, 1996.

Hon. BILL MCCOLLUM,
*Chairman, Subcommittee on Crime, Committee on the Judiciary,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: In preparation for your subcommittee's markup of H.R. 2650, the "Mandatory Federal Prison Drug Treatment Act of 1995," this supplements my letter of March 28, 1996, presenting the views of the Department of Justice concerning that legislation. In that letter, we indicated that the Department of Justice supports the principal features of this legislation with certain modifications.

Since that time, the Department has been working with Representative Heineman, the sponsor of the bill, on those modifications. The attached amendment that we understand Rep. Heineman intends to propose is the result of that collaborative effort and is fully supported by the Department.

The Office of Management and Budget advises that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

ANDREW FOIS,
Assistant Attorney General.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

SECTION 3621 OF TITLE 18, UNITED STATES CODE

§ 3621. Imprisonment of a convicted person

(a) * * *

* * * * *

(e) SUBSTANCE ABUSE TREATMENT.—

(1) * * *

(2) **[(INCENTIVE FOR PRISONERS' SUCCESSFUL COMPLETION OF TREATMENT PROGRAM)]** *TREATMENT REQUIREMENT.*—

(A) **GENERALLY.**—Any prisoner who, in the judgment of the Director of the Bureau of Prisons, has successfully completed a program of residential substance abuse treatment provided under paragraph (1) of this subsection, shall remain in the custody of the Bureau under such conditions as the Bureau deems appropriate. If the conditions of confinement are different from those the prisoner would have experienced absent the successful completion of the treatment, the Bureau shall periodically test the prisoner for substance abuse and discontinue such conditions on determining that substance abuse has recurred.

[(B) PERIOD OF CUSTODY.]—The period a prisoner convicted of a nonviolent offense remains in custody after successfully completing a treatment program may be reduced by the Bureau of Prisons, but such reduction may not be more than one year from the term the prisoner must otherwise serve.]

(B) ADMINISTRATION OF TREATMENT PROGRAMS.—*The Attorney General shall ensure through the use of all appropriate and available incentives and sanctions that eligible prisoners undergo a program of substance abuse treatment.*

* * * * *

(5) **DEFINITIONS.**—As used in this subsection—

(A) * * *

(B) the term “eligible prisoner” means a prisoner who is—

(i) determined by the Bureau of Prisons to have a substance abuse problem; and

[(ii) willing to participate in a residential substance abuse treatment program; and]

(ii) within 24 months of the date of release, or is otherwise designated by the Bureau of Prisons for participation in a residential substance abuse treatment program; and

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